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6 CASE #: 20-2-04779-1 SEA

7 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY  
8

9 HDK INVESTMENTS, LLC, a Washington  
10 limited liability company,

11 Plaintiff,

12 v.  
13 GREEN SKY LABS (USA) LLC, a  
14 Colorado limited liability company;  
15 GREEN SKY LABS INC., a Canadian  
16 Corporation

Defendants.

NO.

COMPLAINT FOR BREACH OF  
CONTRACT AND DAMAGES

17 PARTIES, VENUE AND JURISDICTION

18 1. HDK Investments., (“HDK”), is a Washington limited liability company  
19 registered to do business in the state of Washington.

20 2. Defendant Green Sky Labs (USA) LLC (“GSL USA”) is a Colorado limited  
21 liability company, whose principal place of business is in Colorado and who is registered to do  
22 business in the state of Washington.

23 3. Defendant Green Sky Labs Inc. (“GSL Canada”) is a Canadian limited liability  
24 company whose principal place of business is in Victoria, British Columbia.

25 4. Jurisdiction and venue are proper in this court based on RCW 4.12.025 (1)(c), and  
26 (3)(a) and (c) because at all times relevant to this suit, the defendants transacted business in King  
27

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1 County, entered into an agreement with Plaintiff in King County, and this action is for a tort  
 2 committed in King County.

3 FACTS

4 5. HDK entered into a lease agreement (the “Agreement”) with GSL USA on  
 5 October 16, 2015.

6 6. The Agreement was for a lease term for a warehouse located at 12525 Willows  
 7 Road, NE, Kirkland, WA 98034 (the “Premises”).

8 7. Section 1.03 of the Agreement states the lease term was for seven years.

9 8. Section 1.08 of the Agreement states the Tenant’s Address as 245-1627 Fort  
 10 Street, Victoria BC, Canada.

11 9. Section 7.02 of the Agreement includes a “Tenant’s Obligation” clause, requiring  
 12 the tenant to “make all repairs and replacement and perform all maintenance work that is  
 13 necessary in order to keep the building, common areas on property, and all utilities, equipment  
 14 and systems therein or therefor and/or serving the property in good order and repair and in a safe  
 15 and dry tenantable condition.”

16 10. Section 18.01 of the Agreement includes a “Return of Premises” clause, which  
 17 states “Upon the expiration or termination of this Lease, Tenant shall quit and surrender the  
 18 Premises to Landlord in good order, broom clean, normal wear and tear and damage from fire and  
 19 other casualty (but only to the extent Landlord has the obligation to repair such damage) excepted.  
 20 Subject to the other terms of this Lease, Tenant shall, at its expense, remove all property of Tenant,  
 21 all improvements or alterations to the Premises not wanted by Landlord, and repair damage  
 22 caused by such removal and return the Premises to the condition in which they were prior to the  
 23 installation of the article or articles so removed.”

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 26  
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1       11. Over the course of the tenancy, all rent checks payable under the Agreement were  
2 sent from GSL Canada.

3       12. All correspondence regarding the tenancy on behalf of GSL USA came from GSL,  
4 Canada.

5       13. All contractors hired to do work on the Premises were hired and paid by GSL  
6 Canada.

7       14. On October 31, 2019, HDK received correspondence by email from GSL Canada.  
8 The correspondence contained an attached letter signed on behalf of GSL USA terminating the  
9 Agreement. The email correspondence states “We were hoping to do business in the US but  
10 unfortunately things didn’t go as planned.”

11       15. After terminating the lease in breach of the Agreement, GSL Canada hired a third  
12 party to remove its improvements from the Premises.

13       16. When Plaintiff retook possession of the Premises, it was not in the same condition  
14 it was in when Plaintiff leased the Premises.

15       17. Specifically, the Premises was abandoned mid-remodel. Where portions of the  
16 Premises were completely finished before, there are now large sections without electricity,  
17 heating, walls, or floors.

18       18. The Premises sustained heavy damage from the installation and removal of  
19 fixtures.

20       19. The Premises are longer in leasable condition, and until the Premises is fixed and  
21 returned to its pre-lease condition, as per the Agreement, Plaintiff is unable to lease the Premises.

## CLAIMS FOR RELIEF

## PARENT LIABILITY

20. Plaintiff realleges the allegations in paragraphs 1 to 19.

21. At all times relevant to this action, GSL USA was dominated and controlled by anada.

22. Though the Agreement was signed on behalf of GSL USA, GSL Canada was, in substance, the true party to the contract.

23. GSL USA is so organized and controlled, and its affairs are so conducted, as to make it merely an instrumentality or adjunct of GSL Canada.

24. GSL Canada abused the corporate form in order to avoid a duty owed to Plaintiff.

25. The circumstances are such that the Court should disregard the corporate form and hold GSL Canada liable on the Agreement.

## BREACH OF CONTRACT

26. Plaintiff realleges the allegations in paragraphs 1 to 25.

27. By failing to make all repairs and replacements and serving the Premises in good order and repair, Defendants have breached Section 7.02 of the Agreement.

28. By failing to surrender the Premises to Plaintiff in good order, and to repair damage caused by removal of installations and return the Premises to the condition in which they were prior to the installation of the article or articles so removed, Defendants have breached Section 18.01 of the Agreement.

29. Defendants' breaches of the lease terms under the Agreement constitute a breach of the Agreement.

30. Defendants' breaches of contract have caused the Premises to be untenable.

1 preventing Plaintiff from mitigating its damages.

2 31. Plaintiff is entitled to its damages resulting from Defendants' breaches in an  
3 amount to be determined at trial.

4 WASTE – 64.12 RCW

5 32. Plaintiff realleges the allegations in paragraphs 1 to 31.

6 33. Defendants damaged the Premises during its tenancy, amounting to commissive  
7 waste to the Premises.

8 34. Defendants' damage to the Premises was an unreasonable or improper use, abuse,  
9 mismanagement, or omission of a duty touching the real estate.

10 35. Defendants' damage to the Premises consisted of deliberate, voluntary destructive  
11 acts.

12 36. Plaintiff's Premises was substantially injured by Defendants' acts constituting  
13 commissive waste.

14 37. Plaintiff is entitled to treble damages under RCW 64.12.020 for Defendants'  
15 commissive waste.

16 38. Plaintiff is entitled to attorneys' fees and costs under RCW 64.12.020 for  
17 Defendants' commissive waste.

18 REQUESTS FOR RELIEF

19 22 WHEREFORE plaintiff requests judgment as follows:

20 23 1. That GSL Canada be deemed jointly and severally liable for the acts and omissions  
24 of GSL USA on the theory of parent liability.

25 2. In favor of Plaintiff for breach of Contract against Defendants in an amount to be  
26 determined at trial.

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3. In favor of Plaintiff for Defendants' acts of commissive waste causing damage to Plaintiff's Premises in an amount to be determined at trial.

4. Treble damages pursuant to RCW 64.12.020.

5. Attorneys' fees and costs pursuant to RCW 64.12.020.

6. For such additional relief as the court deems appropriate.

DATED this February 24, 2020.

DATED this February 24, 2020.

s/ Paul Richard Brown

Paul Richard Brown, WSBA #19357

Nathan T. Paine, WSBA #34487

Daniel T. Hagen, WSBA #54015

## Of Karr Tuttle Campbell

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